

- (1) Use grant funds directly; and
- (2) Make subgrants to eligible applicants.

(c) The regulations in part 76 on subgrants apply to a program only if subgrants are authorized under that program.

(d) The authorizing statute determines the eligibility of an applicant for a subgrant.

(Authority: 20 U.S.C. 1221e-3, 3474, and 6511(a))

[45 FR 22517, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 52 FR 27804, July 24, 1987; 54 FR 21776, May 19, 1989]

§ 76.51 A State distributes funds by formula or competition.

If a program statute authorizes a State to make subgrants, the statute:

- (a) Requires the State to use a formula to distribute funds;
- (b) Gives the State discretion to select subgrantees through a competition among the applicants or through some other procedure; or
- (c) Allows some combination of these procedures.

(Authority: 20 U.S.C. 1221e-3, 3474, and 6511(a))

[45 FR 22517, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 54 FR 21776, May 19, 1989]

§ 76.52 Eligibility of faith-based organizations for a subgrant.

(a)(1) A faith-based organization is eligible to apply for and to receive a subgrant under a program of the Department on the same basis as any other private organization, with respect to programs for which such other organizations are eligible.

(2) In the selection of subgrantees, States shall not discriminate for or against a private organization on the basis of the organization's religious character or affiliation.

(b) The provisions of § 76.532 apply to a faith-based organization that receives a subgrant from a State under a State-administered program of the Department.

(c) A private organization that engages in inherently religious activities, such as religious worship, instruction, or proselytization, must offer those services separately in time or location

from any programs or services supported by a subgrant from a State under a State-administered program of the Department, and participation in any such inherently religious activities by beneficiaries of the programs supported by the subgrant must be voluntary.

(d)(1) A faith-based organization that applies for or receives a subgrant from a State under a State-administered program of the Department may retain its independence, autonomy, right of expression, religious character, and authority over its governance.

(2) A faith-based organization may, among other things—

- (i) Retain religious terms in its name;
- (ii) Continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs;
- (iii) Use its facilities to provide services without removing or altering religious art, icons, scriptures, or other symbols from these facilities;
- (iv) Select its board members and otherwise govern itself on a religious basis; and
- (v) Include religious references in its mission statement and other chartering or governing documents.

(e) A private organization that receives a subgrant from a State under a State-administered program of the Department shall not discriminate against a beneficiary or prospective beneficiary in the provision of program services on the basis of religion or religious belief.

(f) If a State or subgrantee contributes its own funds in excess of those funds required by a matching or grant agreement to supplement Federally funded activities, the State or subgrantee has the option to segregate those additional funds or commingle them with the funds required by the matching requirements or grant agreement. However, if the additional funds are commingled, this section applies to all of the commingled funds.

(g) A religious organization's exemption from the Federal prohibition on employment discrimination on the basis of religion, in section 702(a) of the Civil Rights Act of 1964, 42 U.S.C. 2000e-

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1, is not forfeited when the organization receives financial assistance from the Department.

(Authority: 20 U.S.C. 1221e-3, 3474, and 6511(a))

(Authority: 20 U.S.C. 1221e-3, 3474, and 6511(a))

[45 FR 22517, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 69 FR 31711, June 4, 2004]

Subpart B—How a State Applies for a Grant

STATE PLANS AND APPLICATIONS

§ 76.100 Effect of this subpart.

This subpart establishes general requirements that a State must meet to

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apply for a grant under a program covered by this part. Additional requirements are in the authorizing statute and the implementing regulations for the program.

(Authority: 20 U.S.C. 1221e-3 and 3474)

[52 FR 27804, July 24, 1987]

§ 76.101 The general State application.

A State that makes subgrants to local educational agencies under a program subject to this part shall have on file with the Secretary a general application that meets the requirements of section 441 of the General Education Provisions Act.

(Authority: 20 U.S.C. 1221e-3, 1232d, and 3474)

[52 FR 27804, July 24, 1987, as amended at 60 FR 46493, Sept. 6, 1995]

§ 76.102 Definition of “State plan” for part 76.

As used in this part, *State plan* means any of the following documents:

| Document | Program | Authorizing statute | Principal Office |
|--|--|--|------------------|
| State plan | Assistance to States for Education of Handicapped Children. | Part B (except section 619), Individuals with Disabilities Education Act (20 U.S.C. 1411–1420). | OSERS |
| Application | Preschool Grants | Section 619, Individuals with Disabilities Education Act (20 U.S.C. 1419). | OSERS |
| Application | Handicapped Infants and Toddlers. | Part H, Individuals with Disabilities Education Act (20 U.S.C. 1471–1485). | OSERS |
| Application or written request for assistance. | Client Assistance Program | Section 112, Rehabilitation Act of 1973 (29 U.S.C. 732). | OSERS |
| Application | Removal of Architectural Barriers to the Handicapped Program. | Section 607, Individuals with Disabilities Education Act (20 U.S.C. 1406). | OSERS |
| State plan | State Vocational Rehabilitation Services Program. | Title I, Parts A-C, Rehabilitation Act of 1973 (29 U.S.C. 720–741). | OSERS |
| State plan supplement | State Supported Employment Services Program. | Title VI, Part C, Rehabilitation Act of 1973 (29 U.S.C. 795j–795r). | OSERS |
| State plan | State Independent Living Services Program. | Title VII, Part A, Rehabilitation Act of 1973 (29 U.S.C. 796–796d). | OSERS |
| State plan | State Vocational Education Program. | Title I, Part B, Carl D. Perkins Vocational Education Act (20 U.S.C. 2321–2325). | OVAE |
| State plan and application | State-Administered Adult Education Program. | Section 341, Adult Education Act (20 U.S.C. 1206). | OVAE |
| State plan | Even Start Family Literacy Program. | Title I, Chapter 1, Part B of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2741–2749). | OESE |
| State application | State Grants for Strengthening Instruction in Mathematics and Science. | Title II, Part A, Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 2981–2993). | OESE |
| State application | Federal, State and Local Partnership for Educational Improvement. | Title I, Chapter 2, Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 2911–2952 and 2971–2976). | OESE |
| State plan or application | Migrant Education Program | Sections 1201, 1202, Chapter 1, Title I, Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 2781 and 2782). | OESE |
| Application | State Student Incentive Grant Program. | Section 415C, Higher Education Act of 1965 (20 U.S.C. 1070c–2). | OPE |
| Application | Paul Douglas Teacher Scholarship Program. | Section 553, Higher Education Act of 1965 (20 U.S.C. 1111b). | OPE |